

**THE HIGH COURT OF THE UNITED REPUBLIC OF TANZANIA  
[IN THE DISTRICT REGISTRY OF ARUSHA]**

**AT ARUSHA**

**CRIMINAL SESSIONS NO. 58 OF 2022**

**(Original Criminal Case No. P.I No. 2/2020 District Court Longido)**

**REPUBLIC..... COMPLAINANT**

**VERSUS**

**NGESHII SARINGE..... ACCUSED PERSON**

**SENTENCE**

**13/07/2022 & 18/07/2022**

**GWAE, J**

I am asked as to the appropriateness of a sentence against the accused person one Ngeshi s/o Saringe, aged 25 at the time of commission of the offence, pastoralist by occupation and resident of Olomitii village within Longido District in Arusha Region who has been convicted of the offence of Manslaughter c/s 195 read together with section 198 of the Penal Code Cap 16, 2019 (Code).

According to the Republic via Miss Alice Mtenga, the learned state attorney the convict be sentenced to a custodial sentence due to the fact he

applied a sharp object as diagnosed by a medical practitioner. Thus, as her best opinion, the convict deserves a sentence of medium level whereas the defence counsel for the convict sought an imposition of sentence of lower level on the following ground

1. The readily pleaded guilty, thus, it saves precious time of the court and Government Money if the matter would go for full trial
2. The accused has exhibited a repentance towards his wrongful acts.
3. He is the first offender
4. The source of the deceased's death was a fight resulting from adultery
5. The accused has family comprised of two children and a wife
6. The accused person had been in remand since 4<sup>th</sup> September 2020

I have seriously and judiciously considered the convict's mitigating factors advance by the defence taking into account that, the accused person had been charged of murder c/s 196 of the Code, the offence which is not bailable in law. His readiness to plead guilty and without undue regard to the fact that the deceased and convict occurred due to adulterous behaviours of the deceased and the convict's wife one Nanyi w/o Ngeshii though not clearly established by the Prosecution

Having established as herein, I am therefore of the considered view that the gravity or level of the seriousness of the offence is medium level whose sentence starts from five (5) years custodial sentence to six (6) years jail as correctly proposed by the learned counsel for the Republic (See Tanzania Sentencing Manual at page 49).

I have also considered the mitigating factor that the convict person is the first offender (See a judicial decisions in **Abdu and another v Republic** (1971) 1 EA 198 and **Mathias s/o Masaka v. Republic** Criminal Appeal No. 274 of 2009 (unreported-CAT)) as well as the accused's personal and exceptional circumstances such as having two children is capable of justifying the court to reduce the sentence that would have been imposed Sentence. The convict was therefore to be sentenced to **six (6)** years imprisonment if the case was contested at the trial.

I have further paid a devotion to the requirement in the Tanzanian Sentencing Manual, 2020 and various and consistent courts' decisions. In this regard perhaps is apposite if I would adhere to the founded principle calling upon courts' leniency whenever an accused person pleaded guilty in **Francis Chilema vs. Republic** (1968) HCD 510 approved by the Court of Appeal in **Paul vs. Republic** (1990–1994) 1 EA 513 and it was held that

*"It is generally, if not universally, recognised that an accused pleading guilty to an offence with which he is charged qualifies him for the exercise of mercy from the Court. The reason is, I think obvious, in that one of the main objects of punishment is the reformation of the offender. Contrition is the first step toward reformation, and a confession of a crime, as opposed to brazening it out, is an indication of contrition. Therefore, in such a case a court can, and does impose, a milder sentence than it would otherwise have done."*

Basing on the above fundamental principle of the law, plea of guilty by the accused being an indication of contrition and being savior of time and Government money. Therefore, the accused is given benefit of his plea of guilty for 1/3 of the sentence which results into a reduction of 2 years from 6 years jail that he would have been sentenced if the case had proceeded to a full trial. The said six (6) years jail is now reduced to **four (4)** years imprisonment.

Basing on the foregoing reasons, the offender, **Nanyi Ngeshii** is hereby sentenced to **four (4)** years imprisonment commencing from when he was placed in police custody that is on the 4<sup>th</sup> September 2020.


Order accordingly.

DATED at ARUSHA this 18<sup>th</sup> July, 2022

  
**M. R. GWAE,**  
**JUDGE**  
**18/07/2022**

**Court:** Right of appeal to the Court of Appeal of Tanzania fully explained to the parties in of the imposed sentence only.



  
**M. R. GWAE,**  
**JUDGE**  
**18/07/2022**